

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner objects to the specification because the phrase “(other than?)” at page 14, lines 15-16 is improper. In response, the objectionable phrase has been deleted. Accordingly, it is respectfully requested that the objection to the specification be withdrawn.

In the Official Action, the Examiner rejects claim 9 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,830,121 to Enomoto et al., (hereinafter “Enomoto”). Furthermore, the Examiner rejects claims 1-8 and 11-13 under 35 U.S.C. § 103(a) as being unpatentable over Enomoto in view of U.S. Patent No. 6,307,332 to Noguchi et al., (hereinafter “Noguchi”).¹

In response, Applicants have canceled claims 3 and 9 and respectfully traverse the Examiner’s rejections under 35 U.S.C. §§ 102(b) and 103(a) for at least the reasons set forth below with regard to the remaining claims. However, independent claims 1 and 10-13 have been amended to clarify their distinguishing features. Specifically, claim 1 has been amended to recite:

“an estimating unit making an estimation of a secular change in the endoscope from its use start until a present time based on the obtained information, the information indicating a use time and the number of use times of the endoscope, and the number of occurrences of faults per unit the use time and the number of occurrences of faults per unit the number of use times of the endoscope.”

Independent claims 10-13 have been similarly amended. The amendment to claims 1 and 10-13 is fully supported in the original disclosure. Thus, no new matter has been

¹ Although not included in the rejection, it appears that claim 10 is also rejected by the Examiner under 35 U.S.C. § 103(a).

introduced into the disclosure by way of the present amendment to independent claims 1 and 10-13.

Referring to Enomoto, the Examiner argues that “the total usage operating time” in Enomoto corresponds to “the result of an estimation of a secular change” in the claimed invention (citing, column 5 lines 20-46 of Enomoto). In fact, Enomoto expressly describes that the total usage operating time is of while the endoscope is in service (see column 4 lines 1-11; and column 5 lines 6-19).

On the other hand, in claims 1 and 10-13, as amended, recite features not disclosed or suggested by Enomoto or Noguchi. With reference to the specification by way of example and not to limit the scope of the claims thereto, a secular change of a scope 10 is calculated by taking into consideration not only the total use time P1 but also the total number of use times P2, and by further taking into consideration the secular change coefficients α , β , γ , δ , ϵ , ζ , η , and θ (see page 20 lines 2-24 of the specification). Thus, the estimating wait that makes an estimation of a secular change in the endoscope based on not only the total use time of the endoscope but also the total number of use times and the secular change coefficients of the endoscope is not disclosed in either Enomoto or Noguchi.

With regard to the rejection of claim 9 under 35 U.S.C. § 102(b), the same has been canceled, thereby rendering the rejection thereof moot. Consequently, the Examiner is respectfully requested to withdraw the rejection of claim 9 under 35 U.S.C. § 102(b).

With regard to the rejection of claims 1-8 and 10-13 under 35 U.S.C. § 103(a), independent claims 1 and 10-13, as amended, are not rendered obvious by the cited references because neither the Enomoto patent nor the Noguchi patent, whether taken alone or in combination, teach or suggest the features discussed above and recited in independent claims

1 and 10-13. Accordingly, claims 1 and 10-13, as amended, patentably distinguish over the prior art and are allowable. Claims 2 and 4-8, being dependent upon claim 1, are thus at least allowable therewith (claim 3 being canceled). Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-8 and 10-13 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm